

SEEK EVIDENCE FOR \$1,990,800 ACTION AGAINST THE B. R. T.

Thompson and Stover Delve
Into Subway "Prior Deter-
mination" Allowance.

J. P. MORGAN ASKED TO APPEAR TO-MORROW

The Thompson Committee obtained evidence yesterday in connection with the B. R. T.'s contract with the city under the dual subway plan, which the committee and Assistant Corporation Counsel Josiah A. Stover are considering as the basis for a suit to recover between \$750,000 and \$1,990,800 allowed to the B. R. T. in its "prior determination" account. The city instituted a similar suit against the Interborough and the Public Service Commission several months ago, intended to recover between \$4,000,000 and \$6,000,000 from the Interborough's "prior determination" account.

In an effort to unravel the intricacies of the B. R. T.'s contract with the city for its part of the dual subway work and the allowances made on that account, Howard Abel, auditor of the company, occupied the witness stand all day. He refused to acquiesce in the conclusions drawn by the committee and its counsel regarding the B. R. T.'s subway accounts. Senator Thompson and his associates have an idea that they may be able to show that the B. R. T. was able to reduce by considerably more than \$1,000,000 its contribution of \$1,990,800 toward the subway construction.

The gist of the evidence on which the prospective suit will be based, if it is begun, was this:

In a prior determination of March 13, 1913, the B. R. T. was allowed \$1,990,800, which the company maintained represented interest paid on \$40,000,000 par value of six year 5 per cent. notes issued by the B. R. T. for the account of the New York City Railway Corporation, the company formed for the subway partnership with the city in the subway work. This sum was allowed the B. R. T. as a "prior determination" by a special resolution of the Public Service Commission, dated June 30, 1913. The disputed question is whether this sum is actually interest or discount. The contract with the city provides that discount shall be allowed up to 3 per cent. It is the contention of the Thompson committee that instead of being interest the \$1,990,800 really is discount and represents 1 per cent. more than the B. R. T. would be allowed if it were entered as discount. The committee believes that the B. R. T. representatives that it was "prepaid interest," but the committee expects that the B. R. T. if allowed this charge will then put in an item of 2 per cent. for discounting its financial issue.

The notes themselves bore 5 per cent. interest on their face, but the explanation of Col. Williams, the auditor of the B. R. T., was that the company had sold the 5 per cent. notes on a 6 per cent. interest basis. It seems that the banks preferred it that way to a suit for the \$1,990,800. According to the committee's theory, never was in the hands of the B. R. T. It really was discount when the notes were sold and represented 1 per cent. more than the company is allowed in the contract.

The committee contended in its questioning of Col. Williams and Mr. Abel that the B. R. T. had entered this amount as interest in order to evade the discount limitation provided in the contract, and that the committee was now recovering. Both Col. Williams and the auditor denied these insinuations, and maintained that the item was properly not specified what the interest charges on financing shall be, but limits them to interest actually paid or necessarily incurred.

Senator Thompson will continue with the B. R. T. to-day after a brief hearing of Acting Police Commissioner Leon Godley on the tapping of labor union telephones wires by letters from the committee to J. P. Morgan asking him to appear before the committee to-morrow. Senator Thompson called on Charles E. Hughes yesterday to tell him something about the Public Service Commission and to assure him of the support of the western part of New York State.

PAID BY B. R. T.: IS REMOVED.

Justice Crosey censures E. F. Linton, a condemnation commissioner. Justice Crosey in Brooklyn yesterday handed down a decision removing Edward F. Linton, a real estate man in New York City, from the office of condemnation commissioner in the Broadway elevated third tracking proceedings.

Some of the property holders interested in the third tracking complained that Linton while the condemnation work was still under way, had gone to the Brooklyn Rapid Transit Company and asked and received \$250 for services rendered. Linton admitted the charge, but denied any improper motive. Justice Crosey says that while no wrongful intent is attributed to the commissioner his act was injudicious and improper.

"Even the appearance of evil," he said, "must be avoided. It is improper for a commissioner while a matter is pending before him to appear on the other side with a request for an advanced payment of his fees or the loan of money."

Justice Crosey appointed Henry R. Lyons of 133 East Seventeenth street to take Linton's place on the commission.

CAN'T GET HIS RICH SON.

Surrogate Refuses Mills Custody of Heir to \$1,000,000.

WHITELAND, N. Y., June 13.—For a second time Boston Judge W. W. Loring has lost his legal battle with the guardianship and custody of his twelve-year-old son William Crossman Lee of White Plains as Surrogate Sawyer filed a decision to-day in which he appointed De Witt H. Lyon, a lawyer of Port Chester as guardian.

The boy, who is heir to \$1,000,000 left by his mother, has been under the custody of his stepfather, Dr. Frederick Lee of White Plains, who married his mother after she had divorced Mills.

It was only a short time ago that Justice Tompkins of the Supreme Court denied Mr. Mills a writ of habeas corpus for his boy.

It seems to me that the child should not be compelled to live with a man who does not desire him. He does express a desire to live with Emma Kenyon Lee. I would suggest to the new guardian that if Mr. Lee can provide a suitable home for the boy he have the care of him until he reaches a more mature age, when he may decide for himself with whom he wishes to live."

ANOTHER TAPPING INQUIRY BY SWANN IS INDICATED

Action Depends on Whether Labor Leader Will Make
Formal Complaint—Magistrate McAdoo Holds
That Proceeding Against Burns Is Warranted.

Developments in the wire tapping controversy indicated yesterday that District Attorney Swann may order another inquiry predicated on the alleged tapping of the wires of labor union officials. If Peter J. Brady, secretary of the Allied Printing Trades Council, will make a formal complaint, said Mr. Swann, after a talk with the labor leader in the afternoon, he will begin an investigation similar to the John Doe inquiry into the Seymour tapping conducted by Chief Magistrate McAdoo. It was hinted, however, that this prospective second inquiry might be considerably broader than the first one.

Chief Magistrate McAdoo yesterday handed down his decision in the Seymour case. He held that the evidence adduced at the recent public hearings warranted proceedings, upon a proper complaint to the District Attorney, against William J. Burns for alleged violation of section 553 of the Penal Law, which deals with opening or publishing a letter, telegram or private paper.

District Attorney Swann announced that he would order a formal complaint to-day for Frederick Seymour to sign. If Seymour refuses Mr. Swann will endeavor to get the signature of Bartlett Smith, son of the telephone manufacturer, who swore that Burns entered the Seymour offices and had copies made of letters taken from the desks.

Before Thompson Asks.

Mr. Brady appeared yesterday before the Thompson legislative committee and presented a letter to Senator Thompson requesting that Acting Police Commissioner Leon C. Godley be called before the committee to furnish the information which led to the tapping of certain labor union wires and the crimes and suspected crimes sought. Senator Thompson reluctantly granted the petition and directed counsel to ask Mr. Godley to appear before the committee this morning. The chairman, however, is determined not to let the wire tapping inquiry of his committee go any further than that one point.

District Attorney Swann told Mr. Brady he had no power to go beyond a definite complaint in the wire tapping cases. Mr. Brady had information, received from Frank Moss, counsel to the Thompson committee, that not only had about half a dozen labor union wires been tapped, but an equal number of wires of women had been tapped, presumably for divorce evidence, and that private detective agencies had been aided in this respect. Mr. Swann said he had no information on that phase.

Assistant District Attorney Dooling explained that the tapping of the telephone wires of women did not necessarily mean any reflection on the Police Department, because if a private detective agency insisted, for instance, that a certain house wire was being used for twisters, it would be up to the police to proceed upon that information.

McAdoo's Opinion.

The opinion of Chief Magistrate McAdoo in the Seymour case states that it is exceedingly doubtful whether the taking of the papers by Burns and copying them could be construed as larceny or burglary.

The District Attorney, continues the decision, called the Chief Magistrate's attention to section 553 of the Penal Law entitled "Opening or publishing a letter, telegram or private paper." Sections 2 and 4 of this, Judge McAdoo holds, apply to the Seymour case. They provide that guilt consists in taking a letter or telegram or private paper belonging to another or a copy thereof and publishing the whole or any portion thereof or publishing it when knowing it to have been taken or copied without authority. Judge McAdoo says:

"The only question therefore at issue is that raised by counsel as to whether or not the taking of these papers from the desk of Seymour & Seymour, making copies of them and giving such copies to Morgan & Co., who employed him (Burns), is a publication within the meaning of the statute. If it is not then a primary, natural, fundamental and constitutional right of the citizen can be ignored without offending the laws of this State."

"Even if every one connected with the inquiry which we have just closed were willing to ask that no further proceedings be had, the District Attorneys would be simply performing their plain official duty in asking, as he does, that the large public interests of those concerned in the enforcement of the law shall not depend upon the personal interest, reputation or pleasure of those immediately concerned. When Burns took letters from the office of Seymour & Seymour, had them copied and gave these copies to another, he published the contents of the letters from which the copies were made."

"Is this not one of the things the statute intended to prohibit? I am clearly convinced that it was."

Just to get everything on the record the conference between the railway managers and the brotherhoods continued yesterday, although the parties have deadlocked on the "yardstick" answer of the managers. The feeling of the union men was emphasized by a question asked by W. G. Lee, president of the Brotherhood of Railway Trainmen, who arrived yesterday morning from Denver.

"Do I understand," asked Mr. Lee of A. B. Garretson, "that the managers have an idea that we will recede from the position laid down in our proposition?"

"Yes," replied Mr. Garretson, "they do, and it is time they woke up."

The day was taken up with answers of the managers to questions put by the train operatives. At the conclusion H. A. Wheeler, chairman of the railroad situation committee of the Chamber of Commerce of the United States, made a brief address deploring the possibility of a strike. He said the chamber has had a resolution introduced into Congress calling for a general investigation of the wages of all persons utilized in transportation, including telegraphers. No one would comment on the idea afterward.

Allegory Given for War Relief.

MONTCLAIR, N. J., June 13.—"Charity," an allegory, was given last night on the lawn of Fernhill, the home of Mr. and Mrs. Charles Whitting Baker, in the interests of the French and Belgian orphans. "Charity" was impersonated by Miss Winifred Schroeder.

\$22,000 "FUGITIVE" IS HELD.

Kinney, Accused Here, Sent to Boston Jail.

BOSTON, June 13.—Edward E. Kinney, alias Edward C. Kindred, was held in \$25,000 bonds as a fugitive from justice from New York by Judge Creed in the police court to-day. At the request of Kinney's attorney, Ralph C. Mulliken, a continuance of one week was granted. This accused man was sent to Charles street jail. The attorney said it was Kinney's intention to make a fight against extradition, but that this plan might be changed.

The alleged fugitive was measured and photographed for the Rogers Gallery to-day. He is 34 years old, heavy set and was dressed in a green and gray mixed suit and a checked overcoat. Kinney had been indicted for the larceny of \$22,000 from the Flinn-O'Rourke Company of New York.

Kinney, who lived like a nabob here, owes his arrest to a hint made to him by a fellow member of the Bay State Automobile Association, according to report. This man knew Kinney in New York.

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U. S. SHIP CAROLYN AGROUND.

Meets Accident in White Sea—Crew Is Landlocked.

LONDON, June 13.—Despatches from Archangel, Russia, say that the American steamship Carolyn went aground near the Kola Peninsula to-day and six feet of water has entered the forward hold. The crew was landed.

It is said that only slight damage was done.

FINGER PRINTING OF BOYS IS DEFENDED

McAdoo and Simms Say Action
Is Necessary in Case Like
Street Ball Players.

MAYOR TO INVESTIGATE

After Mayor Mitchell said yesterday that he would look into the finger printing of three boys who were fined for playing baseball in the streets on Sunday, Chief Magistrate McAdoo in a statement maintained that the action was not only permissible, but necessary. Magistrate Simms, who ordered the records made, gave out a similar announcement.

The Magistrate said that Ulrich Hotel, John Mohr and Walter Sharpe had each pleaded guilty to disorderly conduct, and therefore the only course open to him was to have their digital impressions made. His superior said that the Magistrate "was only complying with the law and the rules of the Board of Magistrates" in doing so.

"The new parole law," the Chief Magistrate went on, "provides in section 4 that any defendant convicted of disorderly conduct (any phase of this offense) shall be liable to an indeterminate sentence not to exceed two years and six months in the house of correction. The law provides that he has been convicted within a certain period three times for this or other offenses enumerated therein."

"Practically the same records the Magistrate have in these matters is that of the finger prints. Personally, I fully appreciate that a feeling and prejudice against the taking of prints in all cases prevails with many people, and to that end I have agreed with the board hitherto against the finger printing of certain classes of special offenders when the offense does not involve moral turpitude."

"Strong Arm of the Police."

Magistrate McAdoo then defended the finger print system, which was applied to all classes of disorderly persons by a resolution of the Board of City Magistrates on March 2, superseding the previous ruling that it should apply only to postmen, rowdies, masher, vagrants and degenerates. In the face of adverse criticism by lawyers, he upheld finger printing as "the strongest arm of the police."

"The increased number of prints, he acknowledged, had caused the photographing establishment to fall far behind in the work of reproducing them, and it is said that many Magistrates would like to return to the old system, some not enforcing the present regulations in certain cases. Action would probably be taken, the Chief Magistrate said, at the next meeting of the board on June 22.

Magistrate Simms said that no specific statute or city ordinance governs the playing of baseball in the streets on Sunday. He said that last Sunday's case, the first of the kind ever brought before him, came under the grouping of disorderly conduct tending to a breach of the peace.

Says Boys Became Nuisances.

"Personally a man may not like to take the finger marks of young fellows," the Magistrate said, "but these boys had made themselves a public nuisance. The police captain told me that an elderly doctor complained to him with tears in his eyes that the boys had broken his window, had disturbed his sick wife and other residents, and had refused to stop their continual playing. 'Taking finger prints in such cases is not merely optional, as some of my associates have said, but obligatory. I shall continue to do so until the Magistrate pass a ruling to the contrary. I hope this case will prove an example to other boys.'"

In stating that he would start an inquiry the Mayor said:

"I do not know all the details under which this order was issued, but I will look into the case. It appears to carry in it a sense of putting a person in the criminal class. No one regards playing ball as a real crime, morally or legally."

PRISON KEEPER BREAKS DOWN.

Fred Dornier's Nerves Shattered by Last Two Executions.

OSWEGO, N. Y., June 13.—His nerves shattered by the last two executions, the death chamber, Principal Keeper Fred Dornier, head of the unformed force of Sing Sing prison, has been obliged to take a month's leave of absence.

Dornier broke down and had to be taken home after the executions of Roy Champlain and Giovanni Suppe. He is now in Atlantic City recuperating. His absence William Hall, assistant principal keeper, is substituting. Murphy has been promoted from yard foreman to sergeant of the guards. William George W. Kirchoff is negotiating with the village trustees of Ossining to erect a stone wall along Durston avenue to reinforce the highway leading to the prison, which is closed.

OPPENHEIM BRINGS OUT TALE OF BOOKS

Witness Tells of Records of
Expenditures by Lawyers
of Metropolitan.

NOT PRODUCED AT TRIAL

Counsel for Benjamin Oppenheim, the lawyer who is suing the Metropolitan street railway and its officers for \$200,000 damages for causing his disbarment on perjured testimony, believed that an important point was scored for Oppenheim yesterday when a former employee of the Metropolitan testified that books were kept in the legal department showing the expenditures for various purposes.

In the examinations during the trial and before trial of the various Metropolitan officers and employees Edmund L. Mooney, counsel for Oppenheim, had been unsuccessful in his efforts to find out whether there were books, and if so what had become of them. After hearing the witness tell of the books he failed to get the desired information.

Frank B. Edmunds, who is now a claim agent for the New York City Railways and was former assistant to James L. Quackenbush, general counsel for the Interborough, testified that between 1903 and 1904, when the disbarment proceedings was being pressed against Oppenheim, he was cashier of the legal department. He saw vouchers bearing the names of Scudle McDonnell and Mrs. Langstaff, former witnesses in Oppenheim's cases, who turned against him, and that the vouchers showed some charges for the women. The vouchers bore the name "Oppenheim," but the witness said he didn't know what the case was and that the name didn't mean anything to him, although the newspapers were carrying stories about the Oppenheim disbarment at the time.

Chester Baker, formerly an investigator for the Metropolitan, who admitted that he saw the books kept in the legal department, said that he did not know what had become of them. He had a private bank account for Metropolitan money entrusted to him for various purposes, but he was careful to destroy his check stubs every month. His account some time ran to \$500 a month.

The testimony before the trial of George E. R. Morehead, secretary of the Metropolitan, was read into the record. Morehead, who is now a clerk in the accounting department of the Interborough, said he was still an officer of the road and that the only other officer was Mr. Warren, the vice-president. He said he had recently signed many papers as secretary of the Metropolitan.

CRIME GRIST DUMPED AT SEA.

1,000 Pistols, 200 Daggers and 60 Rifles Part of It.

The annual trip of the police boat Patrol to a point several miles off Sandy Hook to dump into the ocean weapons accumulated in the property clerk's office during the year was made yesterday. Baseball bats, clubs and other inflammable articles held as evidence were burned in a furnace at Police Headquarters.

Included among the objects confiscated were 1,000 revolvers, 200 daggers and stiletts, 60 swords and a large number of brass knuckles, blackjacks, sandbags and knives. Several batons used with criminal intent were also dumped overboard.

JOHN WANAMAKER

Broadway at Ninth, New York

Years ago when ready-to-wear clothes were just coming into their own, we had a slogan—"we don't make to measure, but we do make to fit."

As true to-day as it was then.

Little easier now perhaps, because "practice makes perfect."

All sizes.

A variety of models that makes it as easy to care for the man with too much shape as for the man with too little.

As cool as an ocean breeze—

Office coats. All sizes.

ROGERS PEET COMPANY

Broadway at 13th St. "The Four Corners"

Broadway at Warren Fifth Ave. at 41st St.

AMUSEMENTS.

WINTER GARDEN PASSING

Opening June 22 SHOW OF

WASHINGTON SQ. PLAYERS

COMEDY

LEW FIELDS

CASINO

VERY GOOD EDDIE

MARIE TEMPEST

A LADY'S NAME

LYRIC

KATINKA

THE BOOMERANG

THE TRAIL HOLIDAY

GLOBEWAY

BILLIE BURKE

THE BOOMERANG

THE TRAIL HOLIDAY

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THE TRAIL HOLIDAY

GLOBEWAY

BILLIE BURKE



Wanamaker Suits for Man's First Clothing Age--The Young Man

—as fastidious as he is vigorous; "the glass of fashion and the mold of form."

The young man of today likes to be individual, one of a select group. He is proud of his appearance; clothes drape well upon him; he stands straight, gives the tailor a chance; the seeming snugness made possible by following the lines of his broad shoulders, deep chest and slim waist, give him a tailored look, lift him up from the crowd.

One manufacturer cannot successfully please both fastidious and conservative.

So we picked out four manufacturers who make suits only for young men, established a Wanamaker shop in the workrooms of each, put in picked cutters and tailors, gave them our ideas and specifications and selections of fabrics, and told them to make us the best lot of young men's suits to be found in the country.

Come and See
what they have given us, to sell at \$18.50 to \$37.50.

The straight front coats, the smart lapels, the semi-fitting waist lines, the shoulders innocent of all padding, the narrow trousers;

The flannels in plain blue and brown and green at \$23.50;

The snappy checks; the grays and the blues with white stripes;

The unfinished worsteds in mixtures, with silk lining and silk sleeves, at \$28.50.

All-around suits, for business, the club, the motor trip, the country, luncheon and afternoon tea—such a selection as is not to be found elsewhere.

Burlington Arcade floor, New Building.

The London Shop

Here the specialization takes in shirts, room robes, cravats, and other sartorial details, as well as suits. The suits are all cut on advanced lines, approved of the best opinion in London and New York, and are in sizes 36 to 42 chest measurements.

Sixth Gallery, New Building.

JOHN WANAMAKER

Broadway at Ninth, New York

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